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BEFORE THE SECURITIES AND EXCHANGE COMMISSION

)  
In the Matter of: )  
Elan Corporation, plc ) File No. NY-8152  
)  
)

WITNESS: STEVEN COHEN

PAGES: 1-253

PLACE: Room 425  
Securities and Exchange Commission  
3 World Financial Center  
New York, New York

Date: May 3, 2012

The above-entitled matter come on for  
investigation at 10:10 a.m.

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1 Q What was the range in which it varied?	1 A I was just responding to your question.	
2 A You know, I am really not sure. My CFO would 3 know the total.	2 Q So by "bullish," would you agree that that 3 means believing that the stock would go up rather than 4 down?	
4 Q Is it more than \$10,000?	5 A So what is the question again?	
5 A Yes.	6 Q We are trying to define the term "bullish."	
6 Q What is the approximate amount?	7 A I would expect the stock to go up.	
7 A Like I said, you'd have to speak to my CFO. 8 The exact amount varied.	8 Q If you were bullish?	
9 Q Do you know if it was in the hundreds of 10 millions?	9 A That's right.	
11 A It could have been.	10 Q So the beginning of 2008 you were bullish on 11 Elan. Correct?	
12 Q Do you know if it was over a billion?	12 A I am not sure -- I believe so but I can't 13 tell you for certain at what point in 2008.	
13 A I doubt it.	14 Q Can you describe why you were bullish on Elan 15 at the beginning of 2008?	
14 MS. COTTRELL: Did you make the determination 15 to invest in Ridgeback?	16 A I believe it was on the recommendation of Mat 17 Martoma.	
16 THE WITNESS: I wasn't the only one who made 17 that decision.	18 Q Anybody else?	
18 MS. COTTRELL: Were you involved in that 19 decision?	19 A Can you rephrase the question again?	
20 THE WITNESS: Yes, I was.	20 Q The question was -- the first question was 21 why were you bullish in Elan, and your response was on the 22 recommendation of Mr. Martoma?	
21 Q Why did you decide to invest in Ridgeback?	23 A Right.	
22 A Because I think Wayne is a great investor.	24 Q My follow-up question was, anybody else?	
23 Q You mentioned Mr. Holman's wife. What is her 24 name?	25 A On Elan, no. You know, there might have been	
25 A Wendy Holman.		
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1 Q Do you have any interactions with Ms. Holman?	1 others. You know, a lot of people were following that 2 stock so there could have been others.	
2 A Only socially.	3 Q You said that you were bullish on Elan on the 4 recommendation of Mr. Martoma. Did I get that right?	
3 Q Do you ever discuss security trades with her?	5 A Certainly he was one proponent of it.	
4 A It's possible I could have.	6 Q What was Mr. Martoma's advice and 7 recommendation concerning Elan at the beginning of 2008?	
5 MS. COTTRELL: What is Ms. Holman's job?	8 A I don't remember what his recommendation was 9 in the beginning of 2008. I know in general he was 10 bullish on Elan.	
6 THE WITNESS: She works at Ziff Investments.	11 Q Why was he bullish?	
7 MS. COTTRELL: Is she a portfolio manager?	12 A He thought -- can we call the drug "Bap"?	
8 THE WITNESS: She might be. I believe at 9 some point she was.	13 Q Sure.	
10 Q How frequently do you speak to Ms. Holman?	14 A He generally thought Bap would be a good drug 15 for Elan so he was positive on it.	
11 A To?	16 Q When you refer to Bap, you are referring to 17 Bapineuzumab?	
12 Q To Ms. Holman.	18 A That's correct.	
13 A To Wendy Holman?	19 Q Did you have an understanding as to why he 20 thought it would be a good drug?	
14 Q Wendy Holman. Yes.	21 A He generally had done work on it and 22 generally thought it was a good investment to make.	
15 A Only -- very infrequently. Usually at social 16 events.	23 Q What did he tell you about the work he had 24 done?	
17 Q We talked before about Bapineuzumab and Elan. 18 I would like to focus your attention on the beginning of 19 2008. What was SAC's position in Elan in beginning of 20 2008?	25 A Well, he didn't fill me in on the details of	
21 A I don't remember.		
22 Q Do you remember if it was bullish or bearish?		
23 A It was bullish.		
24 Q When you say bullish, what are you referring 25 to?		

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<p>1 his work. I know he spent a lot of time working on it.</p> <p>2 Q At the beginning of 2008 did SAC have an</p> <p>3 investment in Wyeth?</p> <p>4 A I believe so.</p> <p>5 Q In the beginning of 2008 were you bullish or</p> <p>6 bearish on Wyeth?</p> <p>7 A I was bullish based on the recommendation of</p> <p>8 Mat Martoma and Wayne Holman. And there may have been</p> <p>9 others that were bullish; I just don't remember.</p> <p>10 Q Other than Mr. Martoma and Mr. Holman can you</p> <p>11 remember anybody else being bullish on Wyeth at the</p> <p>12 beginning of 2008?</p> <p>13 A I can't remember. There could have been.</p> <p>14 Q What was Mr. Martoma's recommendation</p> <p>15 concerning Wyeth?</p> <p>16 A I believe he was positive on Bapineuzumab and</p> <p>17 therefore he might have been positive on Wyeth.</p> <p>18 Q What was Mr. Holman's recommendation</p> <p>19 concerning Wyeth?</p> <p>20 A He generally thought Wyeth was a good</p> <p>21 risk/reward.</p> <p>22 Q Did you have an understanding as to why that</p> <p>23 was?</p> <p>24 A No. Wayne -- I don't remember other than,</p> <p>25 you know, I think Wayne's a great investor. I assume he</p>	<p>1 A What does that mean?</p> <p>2 Q Describe it for the record.</p> <p>3 A You want me to describe this document now?</p> <p>4 Q Yes.</p> <p>5 A Okay. You want me to read it, or just</p> <p>6 describe it?</p> <p>7 Q Is the letter dated November 9, 2007?</p> <p>8 A I see that.</p> <p>9 Q Let's do it this way: Is it correct that</p> <p>10 Exhibit 4 is a letter agreement between S.A.C. Capital</p> <p>11 Advisors and Ridgeback Capital Management?</p> <p>12 A Looking at the first page, it appears to be</p> <p>13 an agreement between S.A.C. Capital and Ridgeback Capital.</p> <p>14 Q Did you negotiate this agreement?</p> <p>15 A I don't remember.</p> <p>16 Q Do you recall, were you involved in the</p> <p>17 negotiation of this agreement?</p> <p>18 A I could have been.</p> <p>19 MS. COTTRELL: Do you recall there being an</p> <p>20 agreement with Ridgeback Capital around November 2007?</p> <p>21 THE WITNESS: I remember that we had an</p> <p>22 agreement, but I wasn't the person who negotiated. While</p> <p>23 I was kept up on the agreement, my general counsel was</p> <p>24 probably the person who worked on this agreement.</p> <p>25 MS. COTTRELL: Was it your idea to enter into</p>
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<p>1 did good work on the drug Bapineuzumab and thought Wyeth</p> <p>2 was a reasonable investment.</p> <p>3 Q Did he tell you why he believed that Wyeth --</p> <p>4 did Mr. Holman tell you why he believed that Wyeth was a</p> <p>5 good investment at the beginning of 2008?</p> <p>6 MR. KLOTZ: Object to the form.</p> <p>7 A Can you repeat the question?</p> <p>8 Q Did Mr. Holman tell you why he thought Wyeth</p> <p>9 was a good investment at the beginning of 2008?</p> <p>10 MR. KLOTZ: My objection, by the way, is</p> <p>11 simply to the time frame. I think he can answer it at</p> <p>12 some point in 2008. If you want to focus on the time</p> <p>13 frame, I am happy to have you do that.</p> <p>14 A I mean, at some point in 2008 -- and I don't</p> <p>15 remember. I know he recommended that we buy Wyeth for the</p> <p>16 firm account or that we buy Wyeth.</p> <p>17 Q Mr. Cohen, I am handing you a document that</p> <p>18 has been previously marked as Exhibit 4. I am also</p> <p>19 providing a copy for counsel. For the record, Exhibit 4</p> <p>20 is Bates stamped SAC ELAN 726049 through 52.</p> <p>21 Mr. Cohen, have you seen Exhibit 4 before?</p> <p>22 A I might have.</p> <p>23 Q Can you identify it?</p> <p>24 A Excuse me?</p> <p>25 Q Can you identify Exhibit 4?</p>	<p>1 an agreement with Ridgeback Capital in November of 2007?</p> <p>2 THE WITNESS: I don't remember.</p> <p>3 MS. COTTRELL: Did you agree with S.A.C.</p> <p>4 Capital entering into an agreement with Ridgeback in</p> <p>5 November of 2007?</p> <p>6 THE WITNESS: I believe so.</p> <p>7 Q Why did you enter into an agreement with</p> <p>8 Ridgeback in November of 2007?</p> <p>9 A Wayne Holman suggested that SAC buy Wyeth</p> <p>10 based on his recommendation, and so we set up an agreement</p> <p>11 for this purchase.</p> <p>12 Now what was the question again?</p> <p>13 Q Why did you enter into an agreement with</p> <p>14 Ridgeback concerning Wyeth in November of 2007?</p> <p>15 A It was just a documentation of an agreement</p> <p>16 that the firm came to with Wayne Holman.</p> <p>17 Q What were the terms, what was your</p> <p>18 understanding of the terms of the agreement with</p> <p>19 Mr. Holman?</p> <p>20 A I don't remember.</p> <p>21 MS. COTTRELL: In general was your</p> <p>22 understanding that Mr. Holman would be compensated for any</p> <p>23 P and L that SAC generated as a result of his</p> <p>24 recommendations concerning Wyeth?</p> <p>25 THE WITNESS: I believe so.</p>

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<p style="text-align: right;">Page 65</p> <p>1 don't have a hundred percent certainty on this.      2 Q Sitting here today you don't remember others?      3 A There might have been. I just don't      4 remember.      5 Q Can you identify any others?      6 A I can't right now.      7 MS. COTTRELL: Other than the Holman account      8 are there any other accounts at SAC that are accounts in      9 the name of non-SAC employees, non-SAC or non-CR      10 employees?      11 THE WITNESS: I mean, there could have been.      12 I just don't remember.      13 MS. COTTRELL: Do you remember any other      14 accounts at SAC or CR Intrinsic where a non SAC or CR      15 Intrinsic employee was credited for ideas that they      16 presented to SAC?      17 THE WITNESS: None comes to mind today, but      18 it's certainly possible that we had an arrangement with      19 somebody at some point. I just don't remember.      20 Q We talked before about your position in Elan      21 and Wyeth at the beginning of 2008. Was the position in      22 Wyeth one of SAC's biggest positions in the beginning of      23 2008?      24 A It could have been.      25 Q Was it within the top ten percent of the</p>	<p style="text-align: right;">Page 67</p> <p>1 Q So your memory is that the position that      2 S.A.C. Capital held in Wyeth was recommended by      3 Mr. Martoma and Mr. Holman?      4 A They were certainly some of the people who --      5 can you rephrase the question?      6 MR. RIELY: Can you just repeat the question?      7 (Record read.)      8 MR. KLOTZ: Object to form but go ahead and      9 answer.      10 A The answer is they recommended a position in      11 Wyeth but there could have been other people also.      12 MS. COTTRELL: Did you do any independent      13 research concerning Wyeth the beginning of 2008 or prior      14 to that?      15 THE WITNESS: I am not sure what that means.      16 MS. COTTRELL: Did you, yourself, do research      17 to study the fundamentals of Wyeth or study Bap or study      18 anything else concerning Wyeth before entering into the      19 position?      20 THE WITNESS: I might have read analysts      21 recommendations in the firm, outside the firm. There may      22 have been other things I read.      23 MS. COTTRELL: Do you recall reading      24 anything?      25 THE WITNESS: I don't recall.</p>
<p style="text-align: right;">Page 66</p> <p>1 biggest security positions that SAC had at the beginning      2 of 2008?      3 A Yes. But even that, it depends on the      4 notional value. We had fixed income securities. It could      5 have been. But in equity securities, yes.      6 Q In equity securities it was one of the top      7 ten percent positions held by S.A.C. Capital at the      8 beginning of 2008?      9 A I believe so.      10 Q We have tried to cover your reasons for      11 having this position and I think the reasons you listed so      12 far are advice from Mr. Holman concerning Bap. Other than      13 that, any other reasons why SAC had a position in Wyeth in      14 the beginning of 2008?      15 A Well, certainly, you know, Mat Martoma's view      16 on Bap contributed to having a position in Wyeth. And      17 there may have been other people who had views.      18 Q Other than what we have discussed so far, is      19 there any other reason why you held Wyeth at S.A.C.      20 Capital in the beginning of 2008?      21 A There may have been other reasons. I don't      22 remember.      23 Q Is there anything we can do to refresh your      24 recollection?      25 A I don't know.</p>	<p style="text-align: right;">Page 68</p> <p>1 MR. WADHWA: What is your general practice      2 before you put on a trade nowadays? What do you do?      3 MR. KLOTZ: Object to form.      4 MR. WADHWA: Before you, hypothetically      5 speaking, before you buy shares in a company.      6 THE WITNESS: That is a pretty broad      7 question. Can you help me out and narrow it down?      8 MR. WADHWA: No. It is a pretty      9 straightforward question. What are the different types of      10 activities you engage in before you purchase shares in a      11 company?      12 MR. KLOTZ: Object to the form.      13 THE WITNESS: Do you want me to answer?      14 MR. KLOTZ: Yes, go ahead you can answer.      15 THE WITNESS: Listen, there are many things      16 that I potentially could do. I read a lot. Certainly      17 read analyst's reports, read reports from my own people.      18 You know, I watch the tape. I watch the markets. I might      19 have a view on the macro. Might have a view on      20 particular -- view on a particular country, Europe. Could      21 be the U.S., could be China.      22 I speak to a lot of people in my firm who      23 have different expertise. I might speak to friends, might      24 speak to other people in the business.      25 I check my portfolio, see what kind of</p>

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<p>1 exposures I have and whether -- you know, do I want to      2 increase my exposure or decrease my exposure?      3 And there is probably a lot of other things I      4 do.</p> <p>5 MR. WADHA: And has this evolved in any      6 fashion since 2007 or have you generally continued to do      7 the same things as you would have done back in '07?</p> <p>8 THE WITNESS: Pretty much similar, yes.</p> <p>9 Q We are focused on your position in Wyeth in      10 the beginning of 2008. We have shown you the 13F's which      11 reflect the size of your position. So far you have      12 mentioned Mr. Martoma and Mr. Holman recommended that you      13 buy -- that you be bullish on the security because of      14 Bapineuzumab. Correct?</p> <p>15 A Repeat the question?</p> <p>16 Q I am just trying to make sure that I      17 understand your testimony so far.</p> <p>18 A I just blanked out for a second. Sorry.</p> <p>19 Q We have been discussing SAC's position in      20 Wyeth and Elan at the beginning of 2008.</p> <p>21 A That's right.</p> <p>22 Q We have talked about at least the position in      23 Wyeth was one of the top ten percent biggest positions      24 that SAC had at the beginning of 2008. Is that correct?</p> <p>25 A In equities, yes.</p>	<p>1 Elan and Bapineuzumab for a long time. So I really      2 considered them experts, you know, what I would consider      3 to be experts in this particular area. And they are both      4 coming at it from different stocks. Well, Martoma liked      5 both names and Wayne liked Wyeth.</p> <p>6 And so the answer is, they did the work, they      7 were the experts, and I relied on their recommendations.</p> <p>8 Q When a portfolio manager gives you a      9 recommendation how do you evaluate whether or not it is a      10 good idea or bad idea?</p> <p>11 A It really depends. Sometimes it's based on      12 reading e-mails, sometimes it's based on discussions with      13 the portfolio manager, sometimes it involves discussions      14 with other people in the firm, outside the firm, their      15 views. So it really depends on the particular situation.</p> <p>16 Q In late 2007 you entered into a letter      17 agreement with Mr. Holman that contemplated a large      18 investment in Wyeth. Correct?</p> <p>19 A That's correct.</p> <p>20 Q That agreement was entered into because      21 Mr. Holman recommended to you that you make an investment      22 in Wyeth through S.A.C. Capital. Correct?</p> <p>23 A That's correct.</p> <p>24 Q When evaluating Mr. Holman's recommendation,      25 what did you do?</p>
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<p>1 Q So far your reasons for investing in SAC --      2 investing in Wyeth is Mr. Martoma and Mr. Holman?</p> <p>3 A Like I said, yes, and there may have been      4 others.</p> <p>5 Q And you said you can't remember others?</p> <p>6 A Certainly can't remember. I have other -- I      7 have many healthcare portfolio managers and so they could      8 have contributed to the knowledge pool. But I can't      9 recall who at that time.</p> <p>10 Q We're trying to understand all of your      11 reasons for having a bullish position in Elan and Wyeth.</p> <p>12 A Okay.</p> <p>13 Q For example, the position in Wyeth alone was      14 over \$627 million.</p> <p>15 A Okay.</p> <p>16 Q So what did Mr. Holman and Mr. Martoma tell      17 you that led you to take a bullish position in Elan and      18 Wyeth?</p> <p>19 A Well, you know, I think Wayne Holman was      20 recommending Wyeth. And, you know, I consider Wayne one      21 of the great healthcare investors I have ever met and so I      22 have a ton of respect for his work. If he's positive on      23 something and recommends a position -- and he did -- you      24 know, I would be very willing to -- to invest in that.</p> <p>25 And Mat Martoma had done a lot of work on</p>	<p>1 A Well, I don't remember exactly what I did in      2 this particular case. Certainly I am talking to other      3 portfolio managers at the firm. I certainly could be      4 reading research reports. But like I said before, Wayne      5 Holman is a great healthcare investor and so his      6 recommendations are very important to me.</p> <p>7 Q Do you accept every recommendation made by      8 Mr. Holman?</p> <p>9 A We don't talk about everything he does.</p> <p>10 Q The question is, do you accept every      11 recommendation made by Mr. Holman?</p> <p>12 A Sometimes -- the answer is no.</p> <p>13 Q In this instance, why did you accept his      14 recommendation to invest in Wyeth?</p> <p>15 A Because he felt strongly this was a position      16 that the firm ought to take.</p> <p>17 Q It sounded like, when you described your      18 method for evaluating investments, that you independently      19 evaluated ideas and not just relied on a person to tell      20 you whether it was a good idea, a really good idea, or a      21 bad idea.</p> <p>22 The question is, in this instance why did you      23 follow Mr. Holman's advice concerning Wyeth?</p> <p>24 MR. KLOTZ: Object to form but go ahead and      25 answer.</p>

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<p>1   Typically what portfolio managers and analysts do is      2   they – they speak to people in the healthcare industry,      3   they talk to other analysts. You know, this is biotech,      4   it's science. It's an area that is not what I traffic in      5   and so I tend to heavily rely on the work that my analysts      6   and PM's do in that particular space.</p> <p>7   Q   So in the beginning of 2008 it was your      8   understanding that Mr. Martoma believed that Bapineuzumab      9   was going to be a positive drug?</p> <p>10   A   I believe so.</p> <p>11   Q   What did he say about Bapineuzumab that led      12   you to believe he thought it was going to be a positive      13   drug?</p> <p>14   A   He thought – he thought it was going to be a      15   good drug, he thought the results of the various trials      16   would go well. He thought it could be potentially a major      17   impact to Elan's bottom line.</p> <p>18   Q   In the beginning of 2008 did he tell you why      19   he thought it was going to be a good drug?</p> <p>20   A   I knew he was positive on the drug and I know      21   he did work on it. The specifics, I don't remember.</p> <p>22   Q   You also mentioned that Mr. Martoma thought      23   the trials were going to go well. Correct?</p> <p>24   A   In general he thought that was the reason to      25   invest in it, that the data that would come out and the</p>	<p>1   it. I think, you know, whatever that means – like I      2   said, I am a layman when it comes to biotech. I think he      3   had done a lot of work and seemed to have a good      4   understanding of, you know, the possibilities.</p> <p>5   Q   What did he tell you about the work he had      6   done on Bapineuzumab in early 2008?</p> <p>7   A   You know, like I said, I mean, I don't do the      8   work. So basically he writes up his analysis, he might      9   talk to me. I do believe at some point in 2008 the CEO      10   was running around saying the – you know, it could look      11   like this(indicating), the lines -- whatever "this" meant.      12   You know, so he was basically following it.</p> <p>13   You know, going to the analyst days, speaking to other      14   healthcare people, analysts, healthcare professionals.</p> <p>15   And that was his recommendation.</p> <p>16   Q   Did you believe that Mr. Martoma was capable      17   of understanding the science behind Bapineuzumab?</p> <p>18   A   You know, that's – I think whether he      19   actually understood it, it would be hard for me to know      20   because I am not a scientist.</p> <p>21   Q   Do you believe that Mr. Martoma had more      22   expertise than you in the science of Bapineuzumab?</p> <p>23   A   Absolutely.</p> <p>24   Q   What led you to believe that?</p> <p>25   A   Because that is not my -- I don't do that. I</p>
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<p>1   trials that would come out, he would hope to be positive.</p> <p>2   Q   What was your understanding as to what      3   Mr. Martoma's view that the clinical trial data was going      4   to be good?</p> <p>5   A   Can you rephrase the question?</p> <p>6   Q   Sure. What was your understanding as to why      7   Mr. Martoma thought the clinical trial results for it      8   Bapineuzumab would be positive?</p> <p>9   A   I think it was based on the work that he did.      10   Like I said, that is not my area of expertise and so I      11   rely on what I would call the experts. And certainly Mat,      12   I believe, was an expert in that area. Wayne Holman was      13   an expert. Obviously, my other healthcare guys did a lot      14   of work, such as David Munno and Ben Slate, and they had      15   their own views.</p> <p>16   Q   When you refer to Mr. Martoma as an expert      17   in -- what do you mean by that?</p> <p>18   A   In this case it means someone who understands      19   the science, understands what the company is trying to do.      20   And what I consider an expert may not actually be an      21   expert. But for me, being a layman, he is an expert to      22   me.</p> <p>23   Q   Did you believe that Mr. Martoma was an      24   expert on the science behind the Bap drug?</p> <p>25   A   I believe he understood the science behind</p>	<p>1   am not a healthcare professional. I am a generalist and I      2   spend very little time in that arena.</p> <p>3   MS. COTTRELL: What percentage of your      4   investments in your account are healthcare investments?</p> <p>5   MR. KLOTZ: Just to be clear, you are talking      6   about his account, the Cohen account?</p> <p>7   MS. COTTRELL: The Cohen.</p> <p>8   THE WITNESS: I would say 15 to 20 percent.</p> <p>9   MS. COTTRELL: Is that also true for the firm      10   account, to the extent there is a difference between the      11   firm account and Cohen account?</p> <p>12   THE WITNESS: The firm account probably had      13   more.</p> <p>14   MS. COTTRELL: Why is that?</p> <p>15   THE WITNESS: Because, you know, based on the      16   recommendations of people – you know, I didn't want -- if      17   it was a big position I didn't want my own account to be      18   overweighted with one position. Would be hard to run a      19   portfolio from a volatility standpoint if it was      20   concentrated in one position. So if it was going to be a      21   larger position, I might put the extra position in the      22   firm account.</p> <p>23   MS. COTTRELL: Did you have any other      24   positions in either the firm account or the Cohen account      25   recommended by Mr. Martoma?</p>

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<p>1        You see that?</p> <p>2        A     Yes, I do.</p> <p>3        Q     Do you remember getting that message from</p> <p>4        Mr. Martoma?</p> <p>5        A     I believe so.</p> <p>6        Q     And did you subsequently speak to</p> <p>7        Mr. Martoma?</p> <p>8        A     Yes, I did.</p> <p>9        Q     On the Sunday that you received this e-mail</p> <p>10      how many conversations did you have with Mr. Martoma?</p> <p>11      A     I don't remember.</p> <p>12      Q     Was it one or more than one?</p> <p>13      A     Could have been more than one. It could have</p> <p>14      been more than one but I don't remember.</p> <p>15      Q     Did you speak to Mr. Martoma on the morning</p> <p>16      of Sunday, July 20, 2008?</p> <p>17      A     I believe so.</p> <p>18      Q     How long did the conversation last?</p> <p>19      A     I don't remember.</p> <p>20      Q     In the first conversation who participated in</p> <p>21      the conversation?</p> <p>22      A     It was just me and Mat.</p> <p>23      Q     Mr. Martoma was the one who initiated the</p> <p>24      idea to have a conversation?</p> <p>25      A     I believe so.</p>	<p>1        Q     Did you take any notes of the conversation?</p> <p>2        A     I did not.</p> <p>3        Q     Do you know if anybody else -- do you know if</p> <p>4        Mr. Martoma took notes of the conversation?</p> <p>5        A     I don't know.</p> <p>6        Q     After this first conversation with</p> <p>7        Mr. Martoma, what did you do next concerning your</p> <p>8        investment in Elan and Wyeth?</p> <p>9        A     Well, it was a Sunday so I really didn't do</p> <p>10      anything.</p> <p>11      MS. COTTRELL: You said you got together --</p> <p>12      you said "we tried to get a conference call" or something</p> <p>13      together. You recall that?</p> <p>14      THE WITNESS: Yes, I do. At some point on</p> <p>15      Sunday -- and I don't remember exactly what time or when,</p> <p>16      I wanted -- I wanted Mat Martoma and Wayne Holman to talk.</p> <p>17      Q     And why did you want them to talk?</p> <p>18      A     Because they were the experts in Elan and</p> <p>19      Wyeth and I wanted to hear them discuss it.</p> <p>20      Q     Prior to the time that Mr. Martoma reached</p> <p>21      out to you and communicated that he was uncomfortable in</p> <p>22      the position in Elan, before that had Mr. Holman's views</p> <p>23      on Elan or Wyeth changed?</p> <p>24      A     Not that I know of.</p> <p>25      Q     You mentioned that you tried to have a</p>
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<p>1        Q     What did Mr. Martoma say when you first got</p> <p>2      on the phone with him?</p> <p>3        A     He called me and he said -- I remember him</p> <p>4      saying that he was getting uncomfortable with the Elan</p> <p>5      position.</p> <p>6        Q     Did he explain why?</p> <p>7        A     I must have asked him how come or -- because</p> <p>8      he repeated back to me, "I am just getting uncomfortable</p> <p>9      with the Elan position."</p> <p>10      Q     Did he provide any reasons as to why he was</p> <p>11      uncomfortable in the Elan position?</p> <p>12      A     He might have. I just don't remember.</p> <p>13      MS. COTTRELL: What else do you recall about</p> <p>14      that conversation?</p> <p>15      THE WITNESS: I don't recall really anything</p> <p>16      else.</p> <p>17      MS. COTTRELL: The only thing that you recall</p> <p>18      is Mr. Martoma saying, "I am getting uncomfortable with</p> <p>19      the Elan position," you said, "What do you mean?" him</p> <p>20      repeating that, and that's it?</p> <p>21      THE WITNESS: That is what I remember, yes.</p> <p>22      Q     After Mr. Martoma said that he was</p> <p>23      uncomfortable with the Elan position, what else happened</p> <p>24      in the discussion?</p> <p>25      A     I don't remember.</p>	<p>1      conference call with Mr. Martoma and Mr. Holman. Did you</p> <p>2      ultimately have a conference call with them on July 20th?</p> <p>3      A     I don't believe so.</p> <p>4      Q     Did you speak to Mr. Holman on July 20th?</p> <p>5      A     I might have.</p> <p>6      MS. COTTRELL: Do you recall speaking to</p> <p>7      Mr. Holman on July 20th?</p> <p>8      THE WITNESS: It's possible. I just don't</p> <p>9      remember.</p> <p>10     MS. COTTRELL: You don't recall one way or</p> <p>11     the other whether you spoke to Mr. Holman on July 20th?</p> <p>12     THE WITNESS: I am not sure.</p> <p>13     MS. COTTRELL: When you say you are not sure,</p> <p>14     do you have a general recollection one way or the other?</p> <p>15     THE WITNESS: It's possible. I know I tried</p> <p>16     to get a conference call together. I don't think it</p> <p>17     happened on Sunday.</p> <p>18     Q     Did it happen in the subsequent day?</p> <p>19     A     It happened on Monday.</p> <p>20     Q     What time was the conference call on Monday?</p> <p>21     A     I don't remember.</p> <p>22     Q     Do you remember whether it was before the</p> <p>23     market opened?</p> <p>24     A     I don't remember.</p> <p>25     Q     Do you remember whether it was after the</p>

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<p style="text-align: right;">Page 173</p> <p>1 A It appears to be one minute if I am looking 2 at it correctly. 3 Q I am referring to the next call. 4 A 20-minute call? 5 Q Yes. 6 MR. KRAMER: Are you making a representation 7 about that call? 8 Q We know from other records that that call is 9 also from Mr. Martoma? 10 MR. KLOTZ: That doesn't appear from this 11 document but you are saying you know from other documents 12 that is from Martoma? 13 MR. RIELY: Yes. 14 Q Was your call with Mr. Martoma on the morning 15 of July 20th approximately 20 minutes? 16 A It could have been. 17 Q Do you remember it being longer than that? 18 A I don't remember. 19 Q Do you remember it being shorter than that? 20 A I don't remember. 21 Q In the call, other than Mr. Martoma 22 expressing that he was getting uncomfortable with the Elan 23 investment, do you recall anything else? 24 A I don't. 25 Q Was there any discussion of Wyeth during the</p>	<p style="text-align: right;">Page 175</p> <p>1 Mr. Martoma and Mr. Holman on July 21, 2008. 2 A That's correct. 3 Q When in the day was that? 4 A I don't remember. 5 (Plaintiff's Exhibit 35, E-mail, SAC ELAN 6 0581168, was marked for identification as of 7 this date.) 8 MR. RIELY: I am handing the witness 9 Exhibit 35 and a copy is being provided to his counsel. 10 For the record Exhibit 35 is a document Bates stamped SAC 11 ELAN 0581168, an e-mail from Mr. Martoma to Mr. Cohen, 12 July 21, 8:21 a.m. 13 Q Do you see that, Mr. Cohen? 14 A Yes, I do. 15 Q The e-mail says, "Do you have a moment to 16 speak when you get in?" 17 A I see that. 18 Q Do you recall speaking with Mr. Martoma on 19 the morning of July 21, 2008? 20 A No, I don't. 21 Q Do you recall receiving this e-mail? 22 A I don't recall – I don't remember. 23 Q You referenced – at some point you had a 24 conversation with Mr. Holman and Mr. Martoma on July 21st. 25 Correct?</p>
<p style="text-align: right;">Page 174</p> <p>1 call? 2 A There might have been. 3 Q What do you recall about that? 4 A I am just – it's possible. I don't recall. 5 MS. COTTRELL: At this time you had a lot 6 of – you had a lot of money invested in Elan. Correct? 7 THE WITNESS: Yes. 8 MS. COTTRELL: So when Mr. Martoma, who I 9 think you had described as one of your experts, said that 10 he was getting uncomfortable, you don't recall saying to 11 him, "Why?" 12 THE WITNESS: I believe I did. 13 MS. COTTRELL: And you don't recall any 14 substantive response that he had given you? 15 THE WITNESS: Well, he told me again that he 16 was uncomfortable. 17 MS. COTTRELL: And anything more substantive 18 than that? 19 THE WITNESS: He might have. I just don't 20 remember. 21 Q Do you recall challenging him? 22 A Well, I asked him again and that's what he 23 said. And then I just don't remember the rest of the 24 conversation. 25 Q You referenced a conversation with</p>	<p style="text-align: right;">Page 176</p> <p>1 A Actually, I don't remember it happening that way. 3 Q What do you remember? 4 A I don't remember being on that call. I 5 remember asking Wayne to speak to Mat. 6 Q When do you remember asking Mr. Holman to 7 speak to Mr. Martoma? 8 A It would have been the 20th or the 21st. 9 Q Do you know if they subsequently spoke? 10 A I believe they did. 11 Q How do you know about that? 12 A Because Wayne reported back to me on the 13 conversation. 14 Q What did Mr. Martoma report back to you -- 15 what did Mr. Holman report back to you about his 16 conversation with Mr. -- let me rephrase the question. 17 After you asked Mr. Holman to speak to 18 Mr. Martoma on July 20th, do you understand that 19 Mr. Holman spoke to Mr. Martoma? 20 A What date did you say? 21 Q July 20th. 22 A I believe it happened on the 21st. 23 Q Did you have an understanding that 24 Mr. Martoma and Mr. Holman spoke on the 21st? 25 A Yes, I do.</p>

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1 Q Did Mr. Holman subsequently tell you about 2 that conversation? 3 A Yes, he did. 4 Q What did he say? 5 A He said he spoke to Martoma, that he had 6 specific -- Martoma had reasons why he didn't want to be 7 in Elan anymore. They were, you know, reasons that were 8 normal, typical reasons. I am sort of summarizing because 9 I don't remember exactly what Wayne said to me. 10 Then he said, "Listen, in the end, this data 11 is 50/50. You know, this data is unknowable. It's a 12 50/50 bet." 13 Q Who said that? 14 A Wayne Holman. 15 Q When did you have that conversation with 16 Mr. Holman? 17 A On the 21st. 18 Q When on the 21st? 19 A After he spoke to Martoma. I don't know 20 when. 21 Q Did you make any decisions concerning your 22 investments in Elan and Wyeth on or about July 21, 2008? 23 A I believe at some point afterwards I started 24 selling Elan. 25 Q Why did you start selling Elan?	1 Q It sounds like, from your testimony -- is it 2 correct or not correct that you had a conversation with 3 Mr. Holman where Mr. Holman told you on July 21st that the 4 Bapineuzumab data was a coin flip and that it was a 5 risk/reward call? 6 A That was what I took out of it. And to 7 repeat -- and then he said, "In the end, the data is 8 unknowable." 9 MS. COTTRELL: Was that a different statement 10 than Mr. Holman had made to you in the past? 11 THE WITNESS: Well, he never said that in 12 that way, so -- but, you know, that's the way Wayne talks, 13 so it's not -- it's not surprising. 14 MS. COTTRELL Is that different from your 15 understanding of the data? 16 THE WITNESS: I didn't have an understanding 17 of the data. I just felt, based on the work that they 18 did, that at least in Wayne's case it would be better than 19 a 50/50 bet. 20 MS. COTTRELL: You had said that Mr. Holman 21 reported back that Mr. Martoma's reasons why he didn't 22 want to be in Elan were kind of normal, typical reasons. 23 What were you referring to? 24 THE WITNESS: I don't remember. I can 25 surmise what some of them could be. I mean --
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1 A Well, a couple reasons. One, my two experts 2 sounded very different than the way I -- the way they 3 sounded previous. Mat sounded -- said he was very -- he 4 was uncomfortable. Then when talking to Wayne, he 5 described the Bap 2 data as a coin flip, which I was a 6 little surprised at. 7 Q And you had conversations with Mr. Holman 8 concerning the Bap data prior to July 21, 2008? 9 A Probably, sure. 10 Q You said that you were surprised with 11 Mr. Holman's characterization of the Bap data being a coin 12 flip on July 21st? 13 A That's right. 14 Q Is that because it was inconsistent with his 15 previous recommendations to you concerning Wyeth and Elan? 16 A I don't remember exactly what he said to me 17 on the Bap data other than the generally positive. So I 18 was surprised when he said it was 50/50 and that it was a 19 risk/reward bet. That's not what I signed up for. 20 Q It sounds like you recall having a 21 conversation with Mr. Martoma on July 21, 2008 where he 22 said the news about the Bap data was 50/50 and that the 23 investment in Elan and Wyeth was a risk/reward bet? 24 MR. KRAMER: You said Mr. Martoma. I think 25 you mean Mr. Holman.	1 MR. KLOTZ: Do you want him to do that? 2 MS. COTTRELL: Do you have any recollection 3 of what those reasons were that Mr. Holman told you? 4 THE WITNESS: I don't remember. 5 MS. COTTRELL: Why didn't you participate in 6 the phone call between Martoma and Holman? 7 THE WITNESS: I don't remember. 8 Q Prior to July 21, 2008 had Mr. Holman ever 9 previously referred to the Bap data as a coin flip? 10 A I don't believe so. 11 Q And when you referred before, when 12 referencing your conversation with Martoma, that it's not 13 what you signed up for, what did you mean by that? 14 MR. KRAMER: You said Martoma, I think you 15 mean Holman. Can you reask the question so it is clear? 16 I just want to be sure the transcript is clear. 17 Q You referenced before, in relation to your 18 conversation with Mr. Holman, that this was not what you 19 signed up for. What did you mean by that? 20 A I didn't want to make a 50/50 bet. I mean, 21 it's coin flip. You know, it's not what -- I would have 22 hoped the probability was better than 50/50. 23 Q I am just trying to understand what you meant 24 when you said "not what you signed up for." What are you 25 referring to when you say "signed up for"?

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<p>1 A You know, I invested money in Elan and Wyeth, 2 significant sums, and it didn't seem like I was making a 3 bet that was a 50/50 bet. I was surprised by that.</p> <p>4 MS. COTTRELL: Did Mr. Holman talk to you 5 about your investment in Wyeth as opposed to Elan?</p> <p>6 THE WITNESS: He might have at some point. I 7 don't -- when are we talking about?</p> <p>8 MS. COTTRELL: On July 21st.</p> <p>9 THE WITNESS: On July 21st, I don't remember. 10 I believe we were talking about the conversation with 11 Martoma and then he made those comments.</p> <p>12 MS. COTTRELL: What was Mr. Holman's view on 13 July 21st concerning Wyeth?</p> <p>14 THE WITNESS: I think he was still positive 15 from a risk/reward perspective.</p> <p>16 MS. COTTRELL: And do you think that because 17 he told you that?</p> <p>18 THE WITNESS: It was a 50/50 bet. Wayne 19 tends to be a cautious guy and so he thinks in those 20 terms.</p> <p>21 MS. COTTRELL: So on July 21st was Mr. Holman 22 still recommending that you hold Wyeth securities?</p> <p>23 THE WITNESS: I don't remember speaking to 24 him specifically about that.</p> <p>25 Q On July 21, 2008, did you make any decisions</p>	<p>1 a date before which there was a plan to get out of Elan?</p> <p>2 A He wanted it sold during the week.</p> <p>3 Q During the week of July 21st?</p> <p>4 A That's right.</p> <p>5 Q So in advance of the July 29, 2008 6 announcement about the phase 2 trial results?</p> <p>7 A He wanted to be out of the position before 8 the data came out.</p> <p>9 Q Other than Mr. Martoma telling you that he 10 was uncomfortable with the Elan position, did he give you 11 any other reasons why he wanted to be out of Elan before 12 the July 29, 2008 announcement concerning the phase 2 13 results?</p> <p>14 A He might have. I mean, I do remember him 15 telling me that he came to my side.</p> <p>16 Q What do you mean by that?</p> <p>17 A I think it was a reference to the Kelly 18 Martin meeting. And I was somewhat skeptical. And he 19 made a comment at some point there saying, you know, "I 20 have come over to your side."</p> <p>21 MS. COTTRELL: After the Kelly Martin meeting 22 you didn't sell your Elan position. Is that correct?</p> <p>23 THE WITNESS: That's correct.</p> <p>24 MR. KLOTZ: Object to the form retroactively.</p> <p>25 MS. COTTRELL: You know there is no</p>
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<p>1 as to your investment in Elan?</p> <p>2 A I believe at some point after that 3 conversation --</p> <p>4 Q Which conversation?</p> <p>5 A -- with Wayne Holman, I decided to sell the 6 Elan position.</p> <p>7 Q When you say "sell the Elan position," what 8 are you referring to?</p> <p>9 A Selling the -- whatever Elan that I owned.</p> <p>10 And I believe Mat Martoma wanted to sell his Elan.</p> <p>11 Q You said you believe that Mr. Martoma wanted 12 to sell his Elan?</p> <p>13 A Yes.</p> <p>14 Q He sent you an e-mail on the Sunday where he 15 referred to the position that GEHC account in Elan was?</p> <p>16 A That's right.</p> <p>17 Q What portion of that position did Mr. Martoma 18 want to sell?</p> <p>19 A I don't remember.</p> <p>20 Q Was it all of it?</p> <p>21 A I believe he wanted to get out at some point.</p> <p>22 Q Get out of all of Elan?</p> <p>23 A I don't remember him saying that exactly but 24 that was the intent.</p> <p>25 Q The intent was to get out of Elan. Was there</p>	<p>1 objections to form in testimony anyway, so --</p> <p>2 MR. KRAMER: We can't help it.</p> <p>3 Q How did Mr. Martoma go about selling his 4 position in Elan from the accounts that he controlled?</p> <p>5 A I don't know if he did. I think what we did 6 was instruct Phil Villhauer to liquidate all the stock 7 that was owned by -- in the firm account, in my account 8 and in Mat Martoma's account and let him handle it.</p> <p>9 Q When was that instruction given to 10 Mr. Villhauer?</p> <p>11 A It was probably given after that phone call 12 with Wayne.</p> <p>13 Q On July 21st?</p> <p>14 A Probably.</p> <p>15 Q What were the instructions that were given to 16 Mr. Villhauer?</p> <p>17 A To sell the entire position in those three 18 accounts.</p> <p>19 Q Which three accounts?</p> <p>20 A GGEN, Cohen and GEHC.</p> <p>21 Q And GGEN is the CR Intrinsic account?</p> <p>22 A Actually, there might have been other stock.</p> <p>23 I mentioned ISO. There might have been other places.</p> <p>24 Generally the position that we owned in Elan.</p> <p>25 Q How about Wyeth? Were there any instructions</p>

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<p style="text-align: right;">Page 185</p> <p>1 given to Mr. Villhauer concerning Wyeth?      2 A I don't believe so at that point.      3 Q Is Mr. Villhauer Mr. Martoma's trader?      4 A No. He is the firm trader. He is in charge      5 of the trading desk.      6 Q Why was the trades for Mr. Martoma's account      7 placed through Mr. Villhauer?      8 A Because we wanted it executed all -- so he      9 could allocate and -- so he could handle it so we weren't      10 competing with each other in trying to get out of the      11 name.      12 MR. KLOTZ: I don't want to interrupt you in      13 the middle of key events but at some point I think it      14 would be time for a break. We have been going for well      15 over an hour.      16 Q On July 21, 2008 did you make any decisions      17 concerning your investment in Wyeth?      18 A What was the date?      19 Q July 21st.      20 A I don't remember.      21 Q At some point prior to July 29, 2008, did you      22 make a decision concerning your investment in Wyeth?      23 A Yes.      24 Q When was that?      25 A At some point during that week.</p>	<p style="text-align: right;">Page 187</p> <p>1 THE WITNESS: I don't believe so, but he      2 might have.      3 MS. COTTRELL: Do you have a recollection of      4 him telling you?      5 THE WITNESS: I know he told me that he was      6 selling Wyeth, so I am not sure if he told me to sell it      7 or I took it on my own volition based on that he was      8 selling it.      9 MS. COTTRELL: Aside from kind of the macro      10 concerns, did Mr. Holman say anything else about why he      11 was selling Wyeth?      12 THE WITNESS: I don't believe so.      13 MS. COTTRELL: Since Mr. Holman had macro      14 concerns, his macro concerns might not have been your      15 macro concerns. Isn't that correct?      16 THE WITNESS: I can't speak for what his      17 macro concerns were.      18 MS. COTTRELL: So did he give you any reason      19 relating to the investment in Wyeth why he was selling      20 Wyeth as opposed to kind of macro concerns about the      21 economy in general?      22 THE WITNESS: He -- I don't remember him      23 telling me specifically why he was selling Wyeth.      24 MS. COTTRELL: When we were both talking      25 about macro concerns, can you say what you meant by macro</p>
<p style="text-align: right;">Page 186</p> <p>1 Q What prompted you to make a decision      2 concerning your investment in Wyeth the week of July 21st?      3 A I spoke to Wayne at some point and he was      4 telling me he was selling his Wyeth.      5 Q You referenced before a conversation on the      6 21st. Was that the same conversation in which he said he      7 was selling Wyeth?      8 A I don't believe so.      9 Q In the conversation where Mr. Holman      10 referenced that he was selling Wyeth, what do you recall      11 about that conversation?      12 A I don't recall much other than he was telling      13 me he is selling his -- he is selling some Wyeth.      14 MS. COTTRELL: Did he say why?      15 THE WITNESS: I don't remember. I know he      16 was nervous about the world, the macro picture, but he      17 didn't give me any specifics.      18 MS. COTTRELL: Did he say anything else to      19 you in that conversation?      20 THE WITNESS: I don't remember.      21 MS. COTTRELL: Did he recommend that you sell      22 Wyeth?      23 THE WITNESS: I don't believe so.      24 MS. COTTRELL: Did Mr. Holman ever recommend      25 that you sell your Wyeth position?</p>	<p style="text-align: right;">Page 188</p> <p>1 concerns?      2 THE WITNESS: Yeah. It was 2008. The      3 markets were under pressure. The stocks had outperformed      4 a lot and the markets were under pressure.      5 MS. COTTRELL: So Mr. Holman didn't tell you      6 anything specific about his views on Wyeth as to why he      7 sold Wyeth?      8 THE WITNESS: I know we spoke. I just don't      9 remember the specifics.      10 MS. COTTRELL you don't remember him saying      11 anything specifically concerning Wyeth?      12 THE WITNESS: I don't remember that, no.      13 MR. RIELY: Off the record at 4:08.      14 (Recess.)      15 MR. RIELY: Back on the record at 4:20.      16 Q Mr. Cohen, while we were off the record we      17 had no conversations about the substance of this      18 investigation. Correct?      19 A That's correct.      20 Q You referenced before that Mr. Martoma wanted      21 to get out of his position in Elan. Is that correct?      22 A That's correct.      23 Q When did he first express that view to you?      24 A I don't remember. It was definitely after      25 the first conversation we had that Sunday.</p>

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<p>1 Q Referring to the conversation on Sunday, 2 July 20th?</p> <p>3 A That's correct.</p> <p>4 Q Do you know if he expressed the view that he 5 wanted to get completely out of his position in Elan in 6 that first conversation?</p> <p>7 A I don't remember.</p> <p>8 Q Did Mr. Martoma express a view about the 9 Wyeth positions in his account?</p> <p>10 A I don't remember.</p> <p>11 Q Did Mr. Martoma want to get completely out of 12 the Wyeth positions in his accounts?</p> <p>13 A I don't remember.</p> <p>14 Q On Sunday July 20th did you speak to Dave 15 Munno or Ben Slate?</p> <p>16 A I might have.</p> <p>17 Q Do you remember talking to them?</p> <p>18 A I don't remember.</p> <p>19 Q Do you remember talking to Mr. Munno or 20 Mr. Slate prior to making the decision to get out of your 21 position in Elan on July 21st?</p> <p>22 A I might have.</p> <p>23 Q Do you remember?</p> <p>24 A No, I don't.</p> <p>25 Q What role did you have in the securities</p>	<p>1 5050, the coin flip?</p> <p>2 THE WITNESS: That was Wayne Holman 3 discussing about the Bapineuzumab data.</p> <p>4 MS. COTTRELL: Did Mr. Martoma have a view 5 about the Bapineuzumab data?</p> <p>6 THE WITNESS: I don't believe so.</p> <p>7 MS. COTTRELL: Did you have a view of the 8 Bapineuzumab data the week of July 21st?</p> <p>9 THE WITNESS: No, I didn't.</p> <p>10 MS. COTTRELL: If the view of the data was 11 50/50, why did you want to get out of your entire position 12 in Elan?</p> <p>13 THE WITNESS: Well, a number of reasons. 14 One, Wayne was 50/50; and then Mat Martoma told me he was 15 uncomfortable. So, two experts that were recommending the 16 stock to me had both changed -- in my mind, had changed 17 their mind.</p> <p>18 MS. COTTRELL: Were there any other reasons 19 why you wanted to be completely out of your position in 20 Elan?</p> <p>21 THE WITNESS: I think those were the main 22 reasons. There may have been tertiary reasons but I 23 believe those were the main reasons.</p> <p>24 MS. COTTRELL: Do you recall any tertiary 25 reasons?</p>
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<p>1 trades that were placed in Elan on the week of July 21st?</p> <p>2 A Other than instructing my head trader to 3 execute the trades, the answer is very little.</p> <p>4 Q What role did you have in executing any 5 trades in Wyeth the week of July 21st?</p> <p>6 A I don't remember. Maybe some. But also it 7 could have been done by my head trader or my regular 8 trader for that matter.</p> <p>9 Q Who is your regular trader?</p> <p>10 A Whoever handled healthcare for me at the 11 time.</p> <p>12 Q Do you recall who that was in July 2008?</p> <p>13 A No, I don't.</p> <p>14 MS. COTTRELL: Mr. Cohen, you said that 15 Mr. Martoma, in his conversation with you on July 20th, 16 gave you kind of normal typical reasons of why he didn't 17 want to be in Elan and said that he was 50/50 on Elan now. 18 Is that correct?</p> <p>19 THE WITNESS: No.</p> <p>20 MR. KLOTZ: Objection. I think that was 21 Holman.</p> <p>22 MS. COTTRELL: Mr. Holman reported that 23 Mr. Martoma was 50/50 on Elan?</p> <p>24 THE WITNESS: No.</p> <p>25 MS. COTTRELL: What was the reference to</p>	<p>1 THE WITNESS: Could have been the way the 2 markets were trading. You know, could have been, given it 3 was a 50/50 bet and given that these stocks had 4 outperformed the vast majority of stocks in that period, 5 you know, it felt like a risky position.</p> <p>6 MS. COTTRELL: You said it could have been 7 either of those things. Do you recall that either of 8 those -- I think you had described them as tertiary 9 reasons -- were reasons that you thought about in terms of 10 getting out of your Elan position the week of July 21st?</p> <p>11 THE WITNESS: That gets back to the 12 expectational analysis that was discussed previous. Given 13 the fact that it was 50/50 and given the fact -- from 14 Wayne. Given the fact that Mat Martoma was now 15 uncomfortable, I also had, you know, in my head, Munno and 16 Slate who were very negative on the position.</p> <p>17 I didn't have anybody who wanted to be in the 18 position at that point. And so from a -- from what I 19 perceived would be, you know -- Wayne told me at some 20 point he was selling his Wyeth. So at that point all the 21 proponents who were positive on either Elan or Wyeth were 22 now not, and so I literally had no reason to hold onto the 23 position.</p> <p>24 Q You have referenced a few times that 25 Mr. Martoma said that he was uncomfortable with Elan. Did</p>

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<p style="text-align: right;">Page 193</p> <p>1 you have an understanding as to what he meant by that?      2 A No, I didn't.      3 Q Did you ask him what he meant by that?      4 A I definitely asked him because he repeated      5 back to me.      6 Q And you said part of the reason you      7 established a position in your accounts in the first place      8 was because of advice from Mr. Martoma. Correct?      9 A That's correct.      10 Q When he switched his advise and told you      11 nothing more than he was uncomfortable, did you seek      12 additional information from him?      13 A I might have.      14 Q Do you remember doing that?      15 A I don't remember but I might have.      16 Q Do you remember getting any additional      17 information?      18 A It's certainly possible but I just don't      19 remember.      20 (Plaintiff's Exhibit 36, E-mail chain, SAC      21 ELAN 733567 through 569, was marked for      22 identification as of this date.)      23 Q Mr. Cohen, I am handing you what has been      24 marked Exhibit 36, a document Bates stamped SAC ELAN      25 733567 through 569, an e-mail chain starting with an</p>	<p style="text-align: right;">Page 195</p> <p>1 Q Were you aware that SAC, through these      2 accounts, had sold 10.5 million Elan the week of      3 July 21st?      4 A I don't remember the exact amount but that's      5 what it says.      6 Q And you believe it's accurate?      7 A It probably is accurate.      8 Q Then the next clause says, "This was executed      9 quietly and efficiently over a four day period."      10 Do you know what he is referring to when he      11 says "quietly and efficiently"?</p> <p>12 A Yes. We executed quietly so that as few      13 people as possible knew that we were selling the stock.      14 Q Why was that important?      15 A Well, it was a big position. Ten and a half      16 million shares is a lot of stock to sell. The more people      17 you tell, the more they talk; the more they talk, the more      18 it gets out that you are selling Elan.      19 We were probably a first page holder. Market      20 loves information like that. So, we wanted to do it      21 quietly so we would, you know, execute as efficiently as      22 we could so it didn't get out and people run in front of      23 us or -- so we'd get out at a decent price.</p> <p>24 Q When you say "first page holder" what do you      25 mean by that?</p>
<p style="text-align: right;">Page 194</p> <p>1 e-mail from Phillip Villhauer to you and others on Sunday,      2 July 27, 2008 at 8:44 a.m.      3 Do you see that?      4 A Yes, I do.      5 Q Mr. Villhauer was the head trader that you      6 gave your instructions to about getting out of the Elan      7 position; correct?      8 A That's correct.      9 Q If you look at the bottom of the page there      10 is a reference to ELN?      11 A I see that.      12 Q Take a moment to review it.      13 (Pause.)      14 A I see it.      15 Q The first sentence reads, "We executed a sale      16 of over 10.5 million ELN for COHE, GGEN, GEHC, SELC at an      17 avg price of 34.21."      18 Do you see that first sentence?      19 A "We executed a sale --" is that the first      20 sentence?      21 Q Yes.      22 A Okay.      23 Q Were these sales done in compliance with an      24 instruction that you gave Mr. Villhauer?      25 A I believe so.</p>	<p style="text-align: right;">Page 196</p> <p>1 A On Bloomberg it shows up that you might be a      2 holder of Elan. And so if the marketplace finds out, you      3 try to sell it through a broker or sell it through      4 somebody, they might tell somebody, "Hey, Connecticut      5 seller of Elan" and people might surmise who it might be      6 and that cause people to run in front -- they might see      7 our position and say "Oh, they are selling" and create      8 what I call slippage in the execution of the transaction.      9 Q It refers to the executions being done      10 quietly. What steps did you take to keep the execution of      11 the Elan sales the week of July 21st quiet?      12 A I didn't do anything.      13 Q In your instructions to Mr. Villhauer did you      14 communicate to him that you wanted the sales of Elan to be      15 done in a quiet way?      16 A I gave the order to him and told him I didn't      17 want anybody to know.      18 Q Why did you tell him you did not want anybody      19 to know?      20 A Just for the reason I gave you; that I was      21 afraid that it would leak out either in the firm or      22 outside the firm or on Wall Street brokerage desks,      23 trading desks, and that people might run in front of our      24 order, they might tell other people we're selling and, you      25 know, that might create a dislocation in the stock.</p>

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<p>1 Exhibit 37 is a document Bates stamped SAC 3349531 through 2 32.</p> <p>3 Mr. Cohen, do you recognize Exhibit 37?</p> <p>4 A I don't recognize it but I see it.</p> <p>5 Q Exhibit 37 is an e-mail from you to 6 Mr. Debler on July 27, 2008. Do you see that?</p> <p>7 A Yes, I do.</p> <p>8 Q It says, "Between you and me, you can't 9 mention to anyone, I am completely out of ELN."</p> <p>10 Do you see that?</p> <p>11 A Yes, I do.</p> <p>12 Q What did you mean by "I am completely out of 13 ELN"?</p> <p>14 A It appears to mean that I have completely 15 sold out my long position in ELN.</p> <p>16 Q What did you mean by "between you and me, you 17 can't mention to anyone"?</p> <p>18 A Well, I am not sure. I could surmise. He 19 was on my team, so he is instructed to follow my 20 healthcare names, and I didn't want him worrying about 21 Elan, you know, given the fact that I was out of the name.</p> <p>22 Q Why on July 27th, '08 were you telling him 23 not to mention the fact that you were completely out of 24 Elan to anybody else?</p> <p>25 A It's hard -- it's possible that, you know, I</p>	<p>1 A I know I transacted at some point but -- I 2 definitely transacted. I just don't remember exactly what 3 I did.</p> <p>4 MS. COTTRELL: Do you recall generally what 5 you did?</p> <p>6 THE WITNESS: Generally, what I remember was 7 selling Wyeth and then deciding to hedge out my exposure 8 in Wyeth by shorting Elan.</p> <p>9 MS. COTTRELL: Can you explain that, your 10 thought process in a little more detail?</p> <p>11 THE WITNESS: Sure. I still had a position 12 in Wyeth. It's conceivable Wayne might have been selling 13 Wyeth because he told me he was and so I didn't want to 14 compete in Wyeth. I knew that I had executed a lot of 15 stock in Elan the previous week.</p> <p>16 Rather than just selling Wyeth and carrying 17 what I call slippage -- which would have meant could I get 18 out of the amount of stock that I had in Wyeth -- what I 19 decided to do was to sell Wyeth and reduce the amount of 20 overall slippage in the transaction by shorting Elan 21 against it.</p> <p>22 It was sort of imperfect. I was estimating 23 the ratio that I would need to sell one against the other, 24 but that's what I did.</p> <p>25 MS. COTTRELL: Did you discuss your strategy,</p>
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<p>1 still owned the Wyeth position or some of it, so I still 2 had potential to transact. And obviously, you know, it 3 was a big position. Once again, I didn't want anybody to 4 know that I was transacting -- potentially transacting a 5 large position.</p> <p>6 Q On the week -- we referenced before that the 7 ICAD phase 2 announcement was on July 29, 2008. On the 8 weekend prior to the ICAD announcement did you talk to 9 Mr. Holman?</p> <p>10 A I don't remember.</p> <p>11 Q On that weekend did you talk to Mr. Martoma?</p> <p>12 A I don't remember.</p> <p>13 MS. COTTRELL: Do you recall speaking to 14 anyone that weekend about Elan or Wyeth?</p> <p>15 THE WITNESS: I don't remember.</p> <p>16 Q Do you know whether or not Mr. Martoma or 17 Mr. Holman attended the ICAD conference in Chicago?</p> <p>18 A I don't -- I don't know.</p> <p>19 MS. COTTRELL: Did you attend the ICAD 20 conference?</p> <p>21 THE WITNESS: I didn't.</p> <p>22 Q On July 28th and July 29th did you make any 23 transactions in Elan securities?</p> <p>24 A I might have.</p> <p>25 Q Do you recall?</p>	<p>1 as you just described it, with anyone?</p> <p>2 THE WITNESS: I might have.</p> <p>3 MS. COTTRELL: Do you recall discussing it 4 with anyone?</p> <p>5 THE WITNESS: I don't remember.</p> <p>6 MS. COTTRELL: Did you discuss it with 7 Martoma?</p> <p>8 THE WITNESS: I could have.</p> <p>9 MS. COTTRELL: Do you remember discussing it 10 with Martoma?</p> <p>11 THE WITNESS: I don't remember.</p> <p>12 MS. COTTRELL: Did you discuss your strategy 13 with Wayne Holman?</p> <p>14 THE WITNESS: I might have.</p> <p>15 MS. COTTRELL: Do you recall discussing it 16 with Wayne Holman?</p> <p>17 THE WITNESS: I don't.</p> <p>18 MS. COTTRELL: You said you were estimating 19 the ratio. Did you perform that work yourself?</p> <p>20 THE WITNESS: I didn't do a lot of work on 21 this.</p> <p>22 MS. COTTRELL: How did you go about 23 estimating the ratio?</p> <p>24 THE WITNESS: Basically estimating how 25 much -- if -- where would Elan might go if the news was</p>

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<p>1 done?</p> <p>2 A No, I am not.</p> <p>3 Q Who would know how that was done?</p> <p>4 A Phillip Villhauer.</p> <p>5 Q The trades on the 20th reference a series of 6 short sales done by Mr. Martoma?</p> <p>7 MR. KLOTZ: Mr. Riely, I have to tell you, I 8 believe that that is inaccurate. I am reasonably 9 confident there were no short sales in Mr. Martoma's 10 account of Elan. I believe there were some sales but I 11 believe the short sales were not in the GEHC account.</p> <p>12 With that, you are welcome to ask him 13 questions and he can answer. I think there is a 14 significant material inaccuracy in your summary.</p> <p>15 MR. RIELY: The summary was created using 16 information provided by SAC.</p> <p>17 MR. KLOTZ: I understand, but I think you got 18 something wrong.</p> <p>19 Q Did you speak to Mr. Martoma on July 28th?</p> <p>20 A I don't remember.</p> <p>21 Q Did Mr. Martoma talk to you about the 22 possibility of taking a short position in Elan prior to 23 the announcement?</p> <p>24 A I don't remember.</p> <p>25 MS. COTTRELL: Did you talk to Mr. Martoma</p>	<p>1 Q Do you remember speaking to Mr. Martoma on 2 the morning of July 28th?</p> <p>3 A No, I don't.</p> <p>4 Q It also refers to a 3:04 p.m. conversation 5 with Mr. Martoma's number that lasted six minutes. Do you 6 see that?</p> <p>7 A Yes, I do.</p> <p>8 Q Do you remember speaking to Mr. Martoma on 9 the afternoon of July 28th?</p> <p>10 A No, I don't.</p> <p>11 Q Turning your attention to calls on the next 12 page, for July 29th, do you recognize the number 13 (646)675-7404?</p> <p>14 A I don't, until you told me what it was today.</p> <p>15 Q Do you recall speaking to Mr. Martoma on 16 either July 28th or July 29th?</p> <p>17 A I don't remember.</p> <p>18 MS. COTTRELL: Do you recall speaking to 19 Mr. Martoma while he was in Chicago at the ICAD 20 conference?</p> <p>21 THE WITNESS: I don't recall.</p> <p>22 MS. COTTRELL: Do you recall speaking to 23 anyone who was at the ICAD conference?</p> <p>24 THE WITNESS: I don't remember.</p> <p>25 Q Are you aware whether or not Mr. Martoma put</p>
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<p>1 about not selling all of his Wyeth position in order to 2 reduce slippage?</p> <p>3 THE WITNESS: I don't remember having that 4 conversation.</p> <p>5 MS. COTTRELL: Do you know whether 6 Mr. Martoma sold his entire Wyeth position?</p> <p>7 THE WITNESS: I have no idea.</p> <p>8 Q The summary also refers to transactions done 9 by Will Hoh. Who is Will Hoh?</p> <p>10 A He was another portfolio manager at SAC.</p> <p>11 Q Were you aware at the time that he was making 12 transactions?</p> <p>13 A He might have been. I have no idea.</p> <p>14 Q Were you aware that he was making 15 transactions in Elan?</p> <p>16 A I don't remember.</p> <p>17 Q If you go back to Exhibit 34?</p> <p>18 A Okay.</p> <p>19 Q Go to the page marked SAC COHEN 3765, the 20 bottom, calls on July 28th.</p> <p>21 A Okay.</p> <p>22 Q There are one call from Mr. Martoma's number, 23 (203) 979-7824 on July 28th at 8:34 a.m. for four minutes. 24 Do you see that?</p> <p>25 A I do.</p>	<p>1 on an option position in Elan securities on July 28th and 2 July 29th?</p> <p>3 A I don't remember.</p> <p>4 MS. COTTRELL: Is the options strategy that 5 you described earlier something that you would tell your 6 portfolio manager in a general case?</p> <p>7 THE WITNESS: I don't understand the 8 question.</p> <p>9 MS. COTTRELL: If you had developed an 10 options strategy for trading in your account, is that 11 something that you would tell a portfolio manager who you 12 had been working with on a position?</p> <p>13 THE WITNESS: I might.</p> <p>14 MS. COTTRELL: Have you in the past?</p> <p>15 THE WITNESS: Yes.</p> <p>16 MS. COTTRELL: And have there been situations 17 when you haven't told the portfolio manager of your 18 options strategy?</p> <p>19 THE WITNESS: Sure.</p> <p>20 MS. COTTRELL: Do you have any recollection 21 in this case whether or not you told Mr. Martoma about 22 your options strategy concerning Wyeth and Elan?</p> <p>23 THE WITNESS: I don't remember.</p> <p>24 Q Aside from the trades that SAC placed between 25 July 21st and July 29th, are you aware of any other trades</p>

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